

1  
2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
8

9 JOHN BUSTAMATE,  
10 Plaintiff,

No. C 11-03492 SBA (PR)

**ORDER OF DISMISSAL**

11 v.

12 SUPERIOR COURT OF CALIFORNIA, et al.,  
13 Defendants.  
14 \_\_\_\_\_/

15 On June 6, 2012, the Court issued an Order of Dismissal With Leave to Amend and gave  
16 Plaintiff thirty days from the date of the Order to file an amended complaint providing factual and  
17 legal bases for his claims. Plaintiff was warned that a failure to timely file an amended complaint  
18 would result in dismissal for failure to prosecute.

19 The time for Plaintiff to file his amended complaint has passed, and no amended complaint  
20 has been filed.

21 Accordingly, IT IS HEREBY ORDERED that the complaint in the above-captioned action is  
22 DISMISSED for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Court  
23 has rendered its final decision on this matter; therefore, this Order TERMINATES Plaintiff's case.  
24 The Clerk of the Court shall terminate all pending motions and close the file.

25 When and if Plaintiff is prepared to pursue his claims, he may file a new civil rights action.  
26 The limitations period to file a § 1983 action in California is two years, but it is tolled for up to two  
27 years during a continuous period of incarceration. See Silva v. Crain, 169 F.3d 608, 610 (9th Cir.  
28

1 1999) (holding, pursuant to Cal. Civ. Proc. Code § 340(3), that the limitations period for filing a  
2 § 1983 action in California is one year); S.B. 688 (amending Cal. Civ. Proc. Code § 340(3) and  
3 adding § 335.1 to establish two-year residual limitations period for personal injury actions); Cal.  
4 Civ. Proc. Code § 352.1(a) (providing for an additional two years of tolling during a period of  
5 continual imprisonment).

6 IT IS SO ORDERED.

7 DATED: 7/20/12

  
SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JOHN BUSTAMATE,

5 Plaintiff,

6 v.

7 SUPERIOR COURT OF CA et al,

8 Defendant.  
9 \_\_\_\_\_/

Case Number: CV11-03492 SBA

**CERTIFICATE OF SERVICE**

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
11 Court, Northern District of California.

12 That on July 24, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
14 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.

16 John Bustamante  
17 102247 Pistachio Way  
18 Sacramento, CA 95827

19 Dated: July 24, 2012

20 Richard W. Wieking, Clerk  
21 By: Lisa Clark, Deputy Clerk  
22  
23  
24  
25  
26  
27